

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MICHAEL J. HOLMES,

Plaintiff,

v.

HEADWAY WORKFORCE SOLUTIONS,

Defendant.

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CIVIL ACTION NO. 5:22-cv-1307

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446, Headway Workforce Solutions, Inc.’s (misnamed as Headway Workforce Solutions) (“Headway”/“Defendant”) files this Notice of Removal, and shows as follows:

INTRODUCTION

1. On or about November 7, 2022, Plaintiff Michael J. Holmes (“Holmes”/“Plaintiff”) filed this action in the County Court at Law No. 10 of Bexar County, Texas styled *Michael J. Holmes v. Headway Workforce Solutions*, Cause No. 2022-CV-05429 (“State Court Action”). Defendant was served *via* United States Certified Mail with the citation and Plaintiff’s Original Verified Petition (“Petition”) on or about November 8, 2022.

2. There are no other defendants named in the Petition other than Defendant. Defendant has timely filed this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

3. Plaintiff filed this employment action alleging violations of Title VII of the Civil Rights Act of 1964 (“Title VII”), as well as a claim for a “false statement” to the Texas Workforce Commission. (*See* Petition at ¶¶s B, D).

BASIS FOR REMOVAL

a) Subject Matter Jurisdiction and Supplemental Jurisdiction

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §1441. According to the Petition, Plaintiff alleges that he was discriminated against in violation of Title VII of the Civil Rights Act of 1964. (*See* Petition at ¶ B). Under Title VII, the Court has original federal question subject matter jurisdiction of this action without regard to the amount in controversy. In addition, this action arises under the laws of the United States, specifically Title VII; therefore, this Court has subject matter jurisdiction under 28 U.S.C. § 1331. Accordingly, this action may be removed to this Court, as provided by 28 U.S.C. § 1441(a) and (b).

5. The Court also has supplemental jurisdiction over Plaintiff's purported state law discrimination claims under Chapter 21 of the Texas Labor Code because it is so related to the alleged Title VII violation that they form part of the same case and controversy. *See* 28 U.S.C. §1367(a); Petition.

6. Because Plaintiff has asserted a federal cause of action and related state cause of action, this Court has federal question jurisdiction over the entire matter pursuant to 28 U.S.C. §§1331 and 1367(a), and the action is one that may be removed to this Court pursuant to 28 U.S.C. §1441.

b) Diversity Jurisdiction

7. This Court also has original jurisdiction over this case under 28 U.S.C. §1332 because this is a civil action between citizens of different states where the matter in controversy exceeds \$75,000, exclusive of interest and costs. Therefore, this action is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. §1441(a) and (b).

8. In his Petition, Plaintiff asserts a claim for a violation of Title VII. Plaintiff asserts monetary damages of \$75,000. (*See* Petition at ¶ H). Accordingly, the amount in controversy in this matter meets and exceeds the federal jurisdiction minimum of \$75,000.

9. As alleged in paragraph 1 of the Petition, Plaintiff was at the time of filing this action and, on information and belief, still is an individual residing in San Antonio, Texas. (*See* Petition at ¶ A).

10. Defendant is a corporation duly formed under and existing under the laws of the State of North Carolina. As alleged in paragraph 2 of the Original Petition, Defendant's principal place of business is 3100 Smoketree Court, Suite 900, Raleigh, North Carolina 27604. Accordingly, for diversity purposes and at all times relevant to this removal, Defendant was and is a citizen of North Carolina. 28 U.S.C. §1332(c).

PROCEDURAL STATEMENTS

11. Venue in this Court is appropriate under 28 U.S.C. § 1441(a), because this district and division embrace the place in which the State Court Action has been pending.

12. An index of all documents filed in the State Court Action, and the date of filing, is attached hereto as Exhibit A.

13. All pleadings, process, orders, and other filings in the State Court Action, including the docket, are attached to this Notice of Removal as required by 28 U.S.C. § 1446(a). *See* Exhibits A-1 to A-7.

14. A true and correct copy of this Notice of Removal will be promptly filed with the Clerk of the County Court at Law of Bexar County, Texas as required by 28 U.S.C. §1446(d).

15. Written notice of the filing of this Notice of Removal has been or will be given to Plaintiff as required by law.

16. A completed Federal Civil Cover Sheet and the removal fee of \$402.00 accompany this Notice of Removal.

NON-WAIVER

17. By filing this Notice of Removal, Defendant does not waive its right either to answer the Petition and/or assert any claims, defenses or other motions, including, but not limited to, Rule 12 motions permitted by the Federal Rules of Civil Procedure.

CONCLUSION

18. For the foregoing reasons, Defendant respectfully requests that further proceedings in the State Court Action be discontinued, and that this suit be removed to the United States District Court for the Western District of Texas, San Antonio Division.

Dated: December 7, 2022

Respectfully submitted,

OF COUNSEL:

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ATTORNEY FOR DEFENDANT

ATTORNEY-IN-CHARGE FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the following counsel of record on December 7, 2022 via the court's e-filing system.

/s/ Pamela B. Linberg
Pamela B. Linberg